

## **REMARKS**

### **I. Introduction**

This amendment is filed as part of a Request for Continued Examination pursuant to 37 C.F.R. § 1.114 and paying the required fee set forth in § 1.17(e). Therefore, pursuant to 37 C.F.R. § 1.114(d), Applicants request that the finality of the previous Office Action be withdrawn and that the Office consider Applicants' current Amendment and Remarks.

Claims 1-26 and 28-44 are currently pending. Claims 1, 7, 21, 28, and 44 have been amended. Claim 3 has been canceled without prejudice. No new matter has been added. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

### **II. Priority**

Applicants traverse the Office Action's assertion that the applications to which the present application claims priority fail to support or enable any portion of the present claims. Applicants specifically do not admit that the parent applications fail to sufficiently support or enable the pending claims and reserve the right to challenge any such assertion.

### **III. Rejection of Claims 1-26 and 28-44 under 35 U.S.C. § 112 ¶ 1**

Claims 1-26 and 28-44 stand rejected under 35 U.S.C. § 112 ¶ 1 as failing to comply with the written description requirement. Specifically, the Office Action asserts that wireless transmission of an encryption code is not supported by the Specification as originally filed, stating:

The specification, as originally filed, fails to adequately support claimed invention regarding the wireless transmission of encryption code as claimed by transmit an encryption code to the wireless gaming device prior to the wagering information being entered by the player . . . since the disclosure teaches that the encryption code is stored in the player device and changing the code by direct connection.

[Office Action at 3 (citing ¶¶ 39-40 in the application as published).]

The claim language objected does not include the limitation objected to by the Office Action. For example, claim 1, as amended recites "a device configured to communicate an encryption code to the wireless gaming device prior to the wagering information being entered by the player, the wireless gaming device configured to encrypt the signal using the encryption code

prior to transmission of the signal including the player's wager information and the identification code." Nothing in the claim language (even prior to the amendment) limits transmission of the encryption code to wireless transmission. Simply because the device itself is a "wireless gaming device" does not mean that the transmission of an encryption code to the device must also be wireless. The claim language places no such limitation on the form of transmission and, therefore, such a limitation does not need to find support in the Specification. The amendment has made this even clearer.

To further improve clarity, in claims 1, 21 and 44, the term "transmitting" has been replaced by "communicating" to make clear that the communication of the encryption code is not intended to be limited to a wireless transmission.

Claims 21 and 28 were already silent as to any wireless transmission of the encryption code. Similarly, claim 44 recites "receiving the identification code and wagering information which has been entered into the wireless device by the player, encrypted using the encryption code, and wirelessly transmitted by the wireless device". Claim 44 is similarly silent as to any wireless transmission of the encryption code.

Accordingly, Applicant requests withdrawal of the rejection, because the claims, particularly in light of the clarifying amendment, are not limited to wireless transmission of the encryption code.

**IV. Rejection of Claims 1-26 and 28-44 under 35 U.S.C. § 112 ¶ 1**

Claims 1-26 and 28-44 stand rejected under 35 U.S.C. § 112 ¶ 1 as failing to comply with the enablement requirement, for reasons similar to those given in the above rejection, namely that the Specification as filed is allegedly not enabling for wireless transmission of an encryption code. As explained above, the objected feature is not present as a limitation in the claim language. Accordingly, withdrawal of the rejection is respectfully requested.

**V. Rejection of Claims 1-26 and 28-44 under 35 U.S.C. § 112 ¶ 2**

Claims 1-26 and 28-44 stand rejected under 35 U.S.C. § 112 ¶ 2 as indefinite, for reasons similar to those given in the above rejections, namely that the claims are indefinite because the Specification as filed does not describe wireless transmission of an encryption code. As explained above, the contested limitation is not present in the claim language. Accordingly, withdrawal of the rejection is respectfully requested.

**VI. Rejection of Claims 1, 3-6, 8-12, 15, 17-18, 20-21, 23-24, 26, 38-41, and 44 under 35 U.S.C. § 102(b)**

Claims 1, 3-6, 8-12, 15, 17-18, 20-21, 23-24, 26, 38-41, and 44 stand rejected under 35 U.S.C. § 102(b) as unpatentable over International Patent No. WO 96/00950 (“Walker”). Although the rejection is not agreed with independent claims 1 and 21 are amended herein. The present claims are patentable over Walker for at least the following reasons.

As an introduction, example embodiments of the present invention may provide a system for playing a wagering game. A wireless gaming device may be provided which may include an identification code, entry apparatus for entering wagering information by a player, and a transmitter. A receiver may receive the identification code and the wagering information transmitted by the transmitter of the wireless gaming device. The receiver may poll the wireless gaming device to determine whether the player has entered wagering information to be transmitted to the receiver. In example embodiments, the wireless gaming device may be a hand-held device. Such embodiments may have the advantage of providing players with a simple and straightforward way to place wagers in a gaming environment. In addition, the total cost of the components of the system may be kept low, as may be particularly important where a large number of players must be able to interact with the same game. For example, for a typical lottery game, players may number in the tens to hundreds of thousands.

Accordingly, independent claim 1, as presented, recites:

A system for playing a wagering game, comprising:

- a wireless gaming device comprising an identification code, identifying the wireless gaming device, entry apparatus configured to receive wagering information entered by a player, the wagering information representing a wager request made by the player, and a transmitter configured to transmit a signal including both the player's wager information and the identification code together in an encrypted form;

- a device configured to transmit communicate an encryption code to the wireless gaming device prior to the wagering information being entered by the player the wireless gaming device configured to encrypt the signal using the encryption code prior to transmission of the signal including the player's wager information and the identification code;

- a receiver configured to receive the signal transmitted by the transmitter of the wireless gaming device,

- a processor in communication with the received receiver, the processor decrypting the encrypted wager information and identification code received by the receiver.

Walker does not teach or suggest each of the elements of claim 1. For example, claim 1 recites “a wireless gaming device comprising an identification code, identifying the wireless gaming device, **entry apparatus configured to receive wagering information entered by a player the wagering information representing a wager request, and a transmitter configured to transmit a signal including both the player’s wager information and the identification code together in an encrypted form.**” As a result, the wireless gaming device recited in claim 1 is capable of placing wagers in a gaming environment where numerous similar devices may be placing other wagers. Each time the device transmits a signal including both the player’s wager information and the identification code the device may transfer sufficient information to actually place a wager. In fact, claim 1 recites an “entry apparatus configured to receive wagering information entered by a player the wagering information **representing a wager request**, and a transmitter configured to transmit a signal including both the player’s wager information and the identification code together in an encrypted form.” Thus the information transmitted includes an actual request.

This is completely different from the device described in Walker. Although it may be that Walker generally describes a remote gaming system whereby a player can gamble against a wagering establishment, Walker is concerned primarily with off-line wagering. Using the system described in Walker, it appears to be unnecessary to establish an on-line connection with a host computer associated with the wagering establishment to place a wager, the gaming computer having gaming software for providing a wagering opportunity. To facilitate its system, Walker may describe “authenticable messages” to be used later for redemption and other purposes. Walker, however, does not teach or suggest “transmit[ing] a signal including both the player’s wager information and the identification code in an encrypted form,” where the “wagering information represent[s] a wager **request**,” because, in Walker, wagering appears to already be **complete** before Walker’s “authenticable messages” are communicated.

It is also noted that the Office Action argues that

the language comprising ... to transmit a signal including both the player’s wager information and the identification code in an encrypted form continues to permit the wagering information and id code encrypted and transmitted as separate signals at least since comprising a signal permits multiple signals such that between the plurality of signals the various included encrypted information is transmitted.

[Office Action at 17.]

Applicants specifically disagree with the above statement, as the claim language specifically states that the recited information is transmitted in “a signal.” In addition, the amendments to the claims clarify that the information must be transmitted in a single signal. Specifically, claim 1 now recites “a transmitter configured to transmit a signal including both the player’s wager information and the identification code **together** in an encrypted form.”

Accordingly, it is respectfully submitted that Walker does not teach or suggest each of the elements of claim 1, for at least the reasons presented above.

Independent claim 21, as presented, recites:

A method of facilitating the play of a wagering game using a wireless gaming device, comprising:

- communicating an encryption code to the wireless gaming device;
- providing a player the wireless gaming device comprising entry apparatus configured to receive wagering information entered by the player, and a transmitter, and an identification code stored on the wireless gaming device and identifying the wireless gaming device;
- receiving wagering information entered by the player into the entry apparatus, the wagering information representing a wager request made by the player;**
- encrypting both the identification code and the wagering information together using the encryption code;**
- transmitting a signal including **both** the identification code and the wagering information in the encrypted form encrypted using the encryption code;
- receiving the transmitted signal; and
- decrypting the transmitted identification code and wager information.

Walker does not teach or suggest each of the elements of claim 21. For example, claim 21 recites “receiving wagering information entered by the player, the wagering information representing a wager request, into the entry apparatus” and “encrypting both the identification code and the wagering information together using the encryption code.” Accordingly, for at least reasons similar to those presented above in connection with claim 1, it is respectfully submitted that claim 21 is patentable over Walker.

Independent claim 44 recites:

A method, comprising:

- receiving a monetary tender from a player;
- establishing an account having an account balance that includes the monetary tender;
- associating a wireless device having a stored identification code with the account, the identification code identifying the wireless device;**
- providing the player the wireless device;
- communicating an encryption code to the wireless device prior to the entry of wagering information by the player;

receiving the identification code and wagering information which has been entered into the wireless device by the player, encrypted using the encryption code, and wirelessly transmitted by the wireless device;  
registering the players wager in the database based on the received wagering information and the identification code;  
debiting the account balance for the value of the player's wager;  
determining if the player's wager wins a prize in a wagering game, and if the player wins a prize crediting the account balance;  
receiving the wireless device from the player; and  
tendering money to the player based on the account balance.

Walker does not teach or suggest each of the elements of claim 44. For example, claim 44 recites **"associating a wireless device having a stored identification code with the account, the identification code identifying the wireless device."** Walker does not teach or suggest such an element. Walker may generally describe a player account. At most, however, Walker may generally describe an account associated with **an individual**. Walker does not teach or suggest associating an account with an **"identification code identifying the wireless device."** Accordingly, it is respectfully submitted that claim 44 is patentable over Walker for at least the reasons presented above.

In addition, claims 2, 4-20, 36, and 38-41 depend from claim 1 and claims 22-26 depend from claim 21. It is respectfully submitted that the dependent claims are patentable over the proposed combination of references for at least the reasons presented above in connection with independent claims 1 and 21. Withdrawal of the rejection is respectfully requested.

#### **VII. Rejection of Claims 7 and 19 under 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a)**

Claims 7 and 19 stand rejected under 35 U.S.C. § 102(b), or alternatively 35 U.S.C. § 103(a), as unpatentable over Walker. As an initial matter, it is noted that the Office Action makes one reference to "Lupton," on page 7, in the body of the rejection. As the remainder of the rejection does not make any reference to Lupton, Applicants consider the rejection to have been made over Walker alone. If the Office Action intended otherwise, clarification of the rejection is respectfully requested.

As explained above, Walker does not teach or suggest each of the elements of claim 1. The Office Action does not suggest that the elements of claim 1 discussed above are rendered obvious by Walker, and it is respectfully submitted that they are not. Accordingly, it is respectfully submitted that claims 7 and 19, which depend from claim 1, are also

patentable over Walker, for at least the reasons presented above. Withdrawal of the rejection is respectfully requested.

**VIII. Rejection of Claims 13, 16, and 25 under 35 U.S.C. § 103(a)**

Claims 13, 16, and 25 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Walker, in view of U.S. Patent No. 5,770,533 (“Franchi”). Although the rejection is not agreed with, independent claims 1 and 21 are amended herein. The presently pending claims are patentable over the proposed combination of reference for at least the following reasons.

As explained above, Walker does not teach or suggest each of the elements of claims 1 and 21, as presented. The Office Action does not assert that Franchi teaches or suggests the elements of claims 1 and 21 not taught or suggested by Walker, and it is respectfully submitted that Franchi does not teach or suggest the elements. Accordingly, for at least the reasons given above, it is respectfully submitted that the independent claims are patentable over the proposed combination of Walker and Franchi, as are dependent claims 13, 16, and 25. Withdrawal of the rejection is respectfully requested.

**IX. Rejection of Claim 14 under 35 U.S.C. § 103(a)**

Claim 14 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Walker, in view of U.S. Patent No. 5,326,104 (“Pease”). Although the rejection is not agreed with, independent claim 1 is amended herein. The presently pending claims are patentable over the proposed combination of reference for at least the following reasons.

As explained above, Walker does not teach or suggest each of the elements of claim 1, as presented. The Office Action does not assert that Pease teaches or suggests the elements of claim 1 not taught or suggested by Walker, and it is respectfully submitted that Pease does not teach or suggest the elements. Accordingly, for at least the reasons given above, it is respectfully submitted that independent claim 1 is patentable over the proposed combination of Walker and Pease, as is dependent claim 14. Withdrawal of the rejection is respectfully requested.

**X. Rejection of Claims 2, 22, 28-34, and 42-43 under 35 U.S.C. § 103(a)**

Claims 2, 22, 28-34, and 42-43 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Walker, in view of European Patent No. 0649102 (“Woodfield”). Although the rejection is not agreed with, independent claims 1, 21, and 28 are amended

herein. The presently pending claims are patentable over the proposed combination of reference for at least the following reasons.

First, independent claim 28, as presented, recites:

A wireless gaming device for transmitting wagering information to a receiver, comprising:

a memory configured to store an identification code identifying the wireless gaming device;

**entry apparatus configured to receive wagering information from a player, the wagering information representing a wager request;**

**a processor in communication with the memory and the entry apparatus, the processor configured to receive the wagering information from the entry apparatus and to encrypt the identification code and wagering information together using an encryption code received by the wireless gaming device prior to the entry of the wagering information by the player;**

a transmitter receiving the encrypted identification code and wagering information from the processor and converting the identification code and the wagering information into a signal for wireless transmission to the receiver, the transmitter configured to transmit the signal when the receiver polls the wireless gaming device to determine that the wagering information has entered.

Claim 28 recites an “entry apparatus configured to receive wagering information from a player, the wagering information representing a wager request,” and “a processor in communication with the memory and the entry apparatus, the processor configured to receive the wagering information from the entry apparatus and to encrypt the identification code and wagering information together using an encryption code received by the wireless gaming device prior to the entry of the wagering information by the player.” Accordingly, for at least reasons similar to those presented above in connection with claim 1, Walker does not teach or suggest each of the elements of claim 28, as presented. In addition, the Office Action does not assert that Woodfield teaches or suggests the elements, and it is respectfully submitted that Woodfield does not teach or suggest the elements. Accordingly, for at least the reasons given above, it is respectfully submitted that claim 28 is patentable over the proposed combination of Walker and Woodfield, as are dependent claims 29-34 and 42-43.

In addition, claim 2 depends from claim 1 and claim 22 depends from claim 21. As explained above, Walker does not teach or suggest each of the elements of claims 1 and 21, as presented. The Office Action does not assert that Woodfield teaches or suggests the elements of claims 1 and 21 not taught or suggested by Walker, and it is respectfully submitted that Woodfield does not teach or suggest the elements. Accordingly, for at least the reasons given above, it is respectfully submitted that the independent claims are



patentable over the proposed combination of Walker and Woodfield, as are dependent claims 2 and 22. Withdrawal of the rejection is respectfully requested.

**XI. Rejection of Claim 35 under 35 U.S.C. § 103(a)**

Claim 35 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Walker and Woodfield, in view of Franchi. Although the rejection is not agreed with, independent claim 28 is amended herein. The presently pending claims are patentable over the proposed combination of reference for at least the following reasons.

As explained above, the proposed combination of Walker and Woodfield does not teach or suggest each of the elements of claim 28, as presented. The Office Action does not assert that Franchi teaches or suggests the elements of claim 28 not taught or suggested by Walker and Woodfield, and it is respectfully submitted that Franchi does not teach or suggest the elements. Accordingly, for at least the reasons given above, it is respectfully submitted that independent claim 28 is patentable over the proposed combination of Walker, Woodfield, and Franchi, as is dependent claim 35. Withdrawal of the rejection is respectfully requested.

**XII. Rejection of Claim 36 under 35 U.S.C. § 103(a)**

Claim 36 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Walker, in view of U.S. Patent No. 5,785,592 ("Jacobson"). Although the rejection is not agreed with, independent claim 1 is amended herein. The presently pending claims are patentable over the proposed combination of reference for at least the following reasons.

As explained above, Walker does not teach or suggest each of the elements of claim 1, as presented. The Office Action does not assert that Jacobson teaches or suggests the elements of claim 1 not taught or suggested by Walker, and it is respectfully submitted that Jacobson does not teach or suggest the elements. Accordingly, for at least the reasons given above, it is respectfully submitted that independent claim 1 is patentable over the proposed combination of Walker and Jacobson, as is dependent claim 36. Withdrawal of the rejection is respectfully requested.

**XIII. Rejection of Claim 37 under 35 U.S.C. § 103(a)**

Claim 37 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Walker and Woodfield, in view of Jacobson. Although the rejection is not agreed with, independent

claim 28 is amended herein. The presently pending claims are patentable over the proposed combination of reference for at least the following reasons.

As explained above, the proposed combination of Walker and Woodfield does not teach or suggest each of the elements of claim 28, as presented. The Office Action does not assert that Jacobson teaches or suggests the elements of claim 28 not taught or suggested by Walker and Woodfield, and it is respectfully submitted that Jacobson does not teach or suggest the elements. Accordingly, for at least the reasons given above, it is respectfully submitted that independent claim 28 is patentable over the proposed combination of Walker, Woodfield, and Jacobson, as is dependent claim 37. Withdrawal of the rejection is respectfully requested.

#### **XIV. Facts Considered “Common Knowledge or Well-Known in the Art**

In addition, Applicants specifically traverse all suggestions, unsupported by references, that elements of the present claims may be found in the prior art or would be obvious to one skilled in the art. Specifically, Applicants contest the assertion found in ¶ 8 of the Office Action that elements of the claims are inherent in the disclosure of Walker. In addition, Applicants contest the assertions found in ¶ 9, 10, 11, and 13 of the Office Action that elements of the claims are “old or conventional” or “well known.”

Applicants traverse the above mentioned statements as well as any other statements found in the Office Action which may be understood to suggest that an element of any of the pending claims is well-known in the art or would otherwise be obvious to an ordinary artisan, without providing a reference specifically supporting that proposition. Further, to the extent that the Office Action argues that any feature of Applicant’s claims are “well known” without referring to a specific feature of a cited reference, to preserve Applicant’s rights on appeal, Applicant respectfully traverses, and requests either a specific citation to a reference or an affidavit. See 37 C.F.R. §1.104(d)(2).

**XV. CONCLUSION**

In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited. While no additional fee is considered to be due, the Office is hereby authorized to charge any fees, which may arise out of the filing of this paper, or credit any overpayments under 37 C.F.R. §1.16 or §1.17 to the deposit account of **K&L Gates LLP**, Deposit Account No. **080570**.

The Examiner is invited to contact the undersigned at the telephone number below to discuss any matter concerning this application.

Respectfully submitted,  
K&L Gates LLP

Dated: October 5, 2009

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